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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA) No. 09-0347 MHP

15 v.)

16 HIEU NGUYEN,)

17 Defendant.)

18 _____) [PROPOSED] ORDER
19)

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22 On October 26, 2009, defendant Hieu Nguyen filed a motion to suppress evidence in the
23 above-referenced case, arguing that the San Francisco Police Department (“SFPD”) officers did
24 not have cause to conduct a traffic enforcement stop of the vehicle Nguyen was driving on
25 August 31, 2008. On October 27, 2009, the defendant filed a declaration in support of his
26 motion to suppress. On November 9, 2009, the United States filed a response to the motion to
27 suppress, stating that an evidentiary hearing on the motion was appropriate, given the factual
28 dispute between the parties. On February 9, 2010, an evidentiary hearing was held before this

1 Court. SFPD Officers Juan Gala and Jose Guardado testified. Officers Gala and Guardado both
2 testified that they observed the defendant fail to make a stop at a stop sign. Based on his failure
3 to make the stop, the officers conducted a traffic enforcement stop. During the stop, the officers
4 determined that the defendant was on felony probation with a search condition. The defendant
5 was subsequently searched. The defendant did not testify. On March 1, 2010, the Court heard
6 argument on the motion to suppress.

7 The Court finds that Officers Gala and Guardado testified credibly and generally
8 consistently with each other and the police report in this case. The Court finds that the defendant
9 did not testify despite opportunity to do so, and the assertions in his affidavit were not subject to
10 cross-examination. Based on the Court's review of the defendant's affidavit and evaluation of
11 the officers' testimony at the evidentiary hearing, in addition to all the pleadings filed in this
12 matter, the Court denies the defendant's motion to suppress.

13 IT IS SO ORDERED.

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17 DATED: March 18, 2010
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